IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.Rev.Pet.No. 2735 of 2007()

CRA.555/2004 of ADDL. SESSIONS COURT (ADHOC)-II, ALAPPUZHA
CC.41/2003 of JDUL.MAGISTRATE OF FIRST CLASS, RAMANKARI

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REVN. PETITIONER: APPELLANT/ACCUSED

T.RAJENDRA PRASAD, S/O.THANKAPPAN,
CHILLITHARACHIRA VEEDU, KAINAKARY
PANCHAYATH WARD NO.III, ALAPPUZHA DIST.

BY ADV. SRI.G.PRIYADARSAN THAMPI

RESPONDENTS: RESPONDENT/COMPLAINANT/STATE

STATE OF KERALA,
REPRESENTED BY THE ASST.SUB INSPECTOR OF POLICE,
PULINCUNNU POLICE STATION,
REPRESENTING PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2735 OF 2007

Dated this the 20th day of July, 2007

O R D E R

The revision petitioner was the accused in C.C.No.41/03 on the file of the JFCM, Ramankary for an offence punishable under section 324 IPC.

2. The case of the prosecution is that on 6.12.02 at about 7 a.m. the accused, out of previous enmity towards PW1, assaulted him by hitting him on the head with an areca splint causing lacerated injuries. The said case of PW1 was spoken to by PW1 besides PW3. For the conviction under section 324 IPC, the courts below sentenced the revision petitioner to undergo simple imprisonment for one year.

3. Eventhough the learned counsel appearing for the revision petitioner assailed the conviction recorded against the revision petitioner, the conviction has been entered by the courts below after an evaluation of the oral and documentary evidence in the case. I do not find any infirmity in the appreciation of evidence concurrently by the courts below and this court, sitting in the rarefied revisional jurisdiction, will be loathe to interfere with the findings recorded by the courts below. I, therefore, confirm the conviction entered against the revision petitioner.

4. What now survives for consideration is the adequacy or

otherwise of the sentence imposed on the revision petitioner. Both the courts below appear to have been insensitive to the need to compensate the victim of the crime. Notwithstanding the authoritative pronouncement of the Apex court in ***Hari Krishnan and State of Haryana Vs. Sukhbir Singh and others*** [AIR 1988 SC 2127] directing all criminal courts to liberally exercise the power under section 357(3) Cr.P.C., the courts below have been oblivious of the said judicial mandate. I am of the view that the petitioner does not deserve penal servitude by way of incarceration for the offence and that ends of justice will be adequately met by directing him to undergo imprisonment till the rising of the court and to pay an appropriate amount by way of compensation. Accordingly, the sentence imposed on the revision petitioner is set aside and instead he is directed to undergo imprisonment till the rising of the court and to pay a sum of Rs.10,000/- (Rupees ten thousand only) to PW1, the injured, by way of compensation under section 357(3) Cr.P.C. The compensation amount shall be paid within one month from today, failing which the revision petitioner shall undergo simple imprisonment for three months by way of default sentence.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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